PENSION MANAGEMENT OVERSIGHT COMMISSION

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MEETING MINUTES[1]

Meeting Date: September 12, 2007
Meeting Time: 1:00 P.M.
Meeting Place: State House, 200 W. Washington St., Room 233
Meeting City: Indianapolis, Indiana
Meeting Number: 2

Members Present: Sen. Dennis Kruse, Chairperson; Sen. R. Michael Young; Sen. Karen Tallian; Sen. Robert Deig; Rep. David Niezgodski; Rep. Win Moses; Rep. Lawrence Buell; Steve Meno; Kip White; Randall Novak; Matthew Buczolich.

Members Absent: Rep. Woody Burton.

Senator Dennis Kruse, Chairperson, called the second meeting of the Pension Management Oversight Commission (Commission) to order at 1:05 p.m.

Judges Retirement System Issues

The Chair asked Doug Todd, Senior Actuary, McCready and Keene, Inc., to present the additional information that he agreed to provide during the Commission's August 29th meeting. Mr. Todd provided additional information on three topics. First, he presented a chart showing judges' salary history from 1985 to the present (Exhibit 1). He noted that the total salary increase for a circuit or superior court judge in Class 1-2 Counties increased approximately 140% over the 22 year period, or a little more than 4% per year.

Mr. Todd also supplemented his testimony concerning the fiscal impact of magistrates joining the Judges' Retirement System. He stated that, in addition to the increases shown in Exhibit 4 to the minutes of the Commission's August 29, 2007, meeting, the Public Employees'

[1] Exhibits and other materials referenced in these minutes can be inspected and copied in the Legislative Information Center in Room 230 of the State House in Indianapolis, Indiana. Requests for copies may be mailed to the Legislative Information Center, Legislative Services Agency, 200 West Washington Street, Indianapolis, IN 46204-2789. A fee of $0.15 per page and mailing costs will be charged for copies. These minutes are also available on the Internet at the General Assembly homepage. The URL address of the General Assembly homepage is http://www.in.gov/legislative/. No fee is charged for viewing, downloading, or printing minutes from the Internet.

Retirement Fund (PERF) would experience an annual savings of $416,000, if magistrates became members of the Judges' Retirement System.

Finally, in response to a question from Senator Mike Young, Mr. Todd presented a chart comparing benefits under PERF versus benefits under the Judges' Retirement System for a magistrate with eight, ten, 12, 22, and 30 years of service (Exhibit 2).

Mark Goodpaster, Senior Fiscal Analyst, Indiana Legislative Services Agency, then presented a history of court fees in Indiana's courts of record and in city and town courts since 1988, when the General Assembly established the current court fee system (Exhibit 3). He also described some general trends that he has observed, outlined six reasons for fee increases, and discussed the use of broad-based versus specific fees.

In response to questions, Mr. Goodpaster confirmed that $1.50 increase in court fees would be needed to fund both the alignment of judges' benefits and the addition of magistrates as members of the Judges' Retirement System. He also explained that the increase in the juvenile court fee between 1994 and 1995 was the result of increases in the salary of judicial officers and the General Assembly's intent to have the fee increase pay for the salary increases. He further explained that court fees do not include court construction and remodeling costs, because those costs are the counties' responsibility.

Commission Member White asked the annual amount required to actuarially fund the Judges' Retirement System. Mr. Todd stated that the current contribution would be $7.5 million per year.

Judge Thomas J. Felts, President of the Indiana Judges' Association, provided additional information on following topics (Exhibit 4):

(1) The number of judicial officers each year from 1997 through 2007.
(2) The number of senior judges each year from 2001 through 2006.
(3) Total cases filed and disposed of from 1997 through 2006.
(4) Contiguous state filing fee comparisons (including Indiana, Illinois, Ohio, Michigan, and Kentucky), updated September 2007.
(5) Court costs, current through the 2007 legislative session.
(6) The weighted caseload methodology and summary of weighted caseloads in courts of record.

Senator Mike Young asked for information about the caseload per judge between 1997 and 2006. The Commission members discussed the purposes served by increasing judges' benefits, including both the recruitment and retention of judges.

Magistrate Lou Rosenberg, Marion County, Indiana, described the work of magistrates in Indiana courts. He noted that magistrates' duties are similar to judges and that they are not limited to handling preliminary matters as they are in some states. He said that pension benefits are as important to magistrates as they are to judges. Transferring magistrates into the Judges' Retirement System would help magistrates planning for retirement at the same time they are experiencing heavy college and other living expenses.

In response to a question from Senator Mike Young, Magistrate Rosenberg explained that some commissioners perform duties similar to magistrates, but commissioner duties vary widely. He added that commissioners are compensated by the county, not the state.

Magistrate Mick Jensen, Marion County, Indiana, provided additional information about a magistrate's duties. Magistrate Jensen handles a major felony and drug court. His duties are the same as an elected judge, but he doesn't have a courtroom or court staff. He described the differences in pension benefits between deputy prosecutors and magistrates. When he became a magistrate he experienced a salary reduction and also a reduction in total income, because he could no longer maintain an outside private practice as he could as a deputy prosecutor. He suggested that transferring magistrates into the Judges' Retirement System is a fairness issue.

The Chair briefly recessed the meeting to allow the Commission to move to the Supreme Court Courtroom.

Teacher Retirement Issues

Ralph Ayres, Executive Director, Indiana Retired Teachers' Association, presented three legislative proposals. The first proposal would allow a member of the Indiana State Teachers' Retirement Fund (TRF) to change the member's beneficiary designation if the member and the member's designated beneficiary are parties in any action for dissolution of marriage. Under current law, a TRF member may change the member's designated beneficiary only if the member and the member's beneficiary are parties in an Indiana action for dissolution of marriage. Staff presented PD 3064 (Exhibit 5). PD 3064 would not allow a member to make the beneficiary change if a final order or property settlement: (1) prohibits a change to the member's designated beneficiary; or (2) provides a right to a survivor's benefit to a person who would be removed as a designated beneficiary.

The second proposal would reduce from 90 days to 30 days the waiting period after which a retired TRF member could be reemployed in a covered position and continue to receive a retirement benefit. The Commission reviewed PD 3062 (Exhibit 6), which would make this change.

Senator Mike Young asked about the pay level of reemployed retirees. Mr. Ayres indicated that the pay of a reemployed retiree would be governed by contract and that most reemployed retirees do not work full-time.

Gail Zeheralis representing the Indiana State Teachers Association (ISTA) supported the proposal, but didn't support a reduction in the waiting period that would jeopardize TRF's qualified status with the Internal Revenue Service.

Sally Sloan representing the Indiana Federation of Teachers (IFT) also supported the proposal.

The third proposal is a cost of living adjustment (COLA) in 2009 for TRF members, survivors, and beneficiaries. The pension portion of the monthly benefit would be increased by 2% for members who retired or became disabled before July 2, 2000, and by 1% for members who retired or became disabled after July 1, 2000, and before July 2, 2006. PD 3063 (Exhibit 7) presented these changes.

Julia A. Pogue, Chief Financial Officer of TRF, and Cristy Wheeler, TRF Executive Director, discussed the financial impact of the proposed COLA (Exhibit 8) and how TRF determines the COLA funding. The estimated increase in the present value of future benefits attributable to the proposed COLA is $73.1M. One percent of the financial impact of the COLA, totaling $47.5M, is included in the actuarial evaluation in accordance with IC 21-6.1-2-5 [recodified at IC 5-10.4-2-4]. The net increase in the present value of future benefits associated with the proposed COLA, in addition to the assumed one percent, is $25.6M.

Mr. Ayres presented a comparison of benefits for a teacher retiring in Indiana, Kansas, Wisconsin, Michigan, Missouri, and Connecticut (Exhibit 9).

Sudan Divestment Status Report

Andrea Unzicker, PERF General Counsel, speaking on behalf of both PERF and TRF, provided a status report on the implementation of HEA 1067 (P.L.149-2007), which requires PERF and TRF, in the capacity of shareholders, to: (1) request that companies with certain business activities in Sudan cease those activities; and (2) sell or divest all publicly traded securities held in a company that is unresponsive to the request. She began by reviewing the actions and timeline required by HEA 1067.

PERF and TRF issued a Request for Proposals (RFP) for assistance in identifying companies in the funds' portfolios that are engaged in prohibited business activities in Sudan. PERF and TRF received two responses to the RFP: KLD and Institutional Shareholder Services (ISS). After reviewing both responses, PERF and TRF recommended the selection of ISS. PERF expects to contract with ISS this week. TRF is still negotiating with ISS, but expects to reach an agreement soon. The list of companies engaging in the prohibited business activities is due at the end of October, and letter writing to the companies on the list should start shortly after that.

In response to questions from Senator Mike Young, Ms. Unzicker stated that ISS will determine the details of how companies are selected for the list, but a parent company and its subsidiaries will be included. She also confirmed that divestment will involve the payment of transaction fees by PERF and TRF, but that nothing has been sold yet. She also told the Commission that the funds' investment policies have not changed, so that it is possible, but not likely, that the funds currently are buying stock in companies engaged in prohibited business activities in Sudan. She estimated that PERF has approximately five holdings valued at $14.4M in companies engaged in prohibited business activities in Sudan. PERF contracted to pay ISS an amount not to exceed $13,500, which will be spent mostly for conducting research. Any letter writing services that ISS provides are ancillary to the company's research duties.

1977 Fund Advisory Committee Issues

At the Chair's request, Ms. Unzicker briefly reported on the status of several issues raised by the 1977 Fund Advisory Committee (Advisory Committee). PERF is addressing four of the five issues. PERF has asked Doug Todd to compile information concerning the 1977 Fund's funding level. This report should be available at the September 20th meeting of the Advisory Committee. PERF believes that the customer service levels for 1977 Fund members are being met. PERF has also engaged outside counsel to review and propose a solution to the concerns involving the taxation of disability benefits. PERF is also addressing issues related to local pension boards and hiring mental exams. The fifth issue raised by the Advisory Committee, the possible transfer of all or a portion of the remaining 1977 Fund convertees to the 1977 Fund, is discussed below.

Public Employee Retirement Issues

Phil Conklin representing the Retired Indiana Public Employees Association, Inc., presented three proposals (Exhibit 10). The first proposal would reduce from ten years to eight years the vesting requirement for PERF. In 2004, the Wisconsin Legislative Council conducted a study of some 68 public retirement plans throughout the United States. Fifty of those plans had a vesting period of five years or less. Four plans had a vesting period of eight years and the remaining 14 plans had a ten year vesting requirement. PERF's ten year vesting period ranks near the bottom nationally in this study. The Commission reviewed PD 3073 (Exhibit 11), which would reduce the PERF vesting period from ten to eight years.

The second proposal would reduce from 20 to 12 the number of quarters used in PERF's final average salary computation. A study presented to the Commission in 2000 showed that: (1) 30 public employee plans used three years or less; (2) five plans used three and a half to four years; and (3) five plans used five years; in the final average salary computation. The 2004 Wisconsin Legislative Council study found that 54 plans used three years or less and 14 plans used five years in the final salary computation. PERF's use of 20 quarters in the final average salary computation ranks PERF at the bottom nationally. PD 3065 (Exhibit 12) shows the proposed change. Mr. Conklin estimated the average PERF benefit would increase three to four percent and the employer assessment would increase about five percent if this change occurred.

The third proposal would permit a PERF member who:(1) is vested; and (2) separates for more than 90 days from employment in a covered position before the member is eligible to receive a retirement benefit; to make a one-time election to withdraw the member's annuity savings account (ASA) after giving reasonable notice to PERF. A member who withdraws the member's ASA before retirement would not forfeit the ability to receive a pension benefit when the member becomes eligible to do so. Mr. Conklin explained that most PERF members consider the ASA to be additional compensation that may be used for retirement or withdrawn for other purposes. Thirty-nine percent of PERF members currently withdraw the ASA as a lump sum at retirement. If the ASA is not withdrawn, the ASA typically buys an annuity that adds about .4% to a member's retirement benefit. Allowing a member to withdraw the member's ASA before retirement would not have a fiscal impact on PERF.

Mr. Conklin also mentioned that he will be asking for a 2009 COLA for PERF retirees similar to the proposal made for TRF, but he does not plan to bring a COLA proposal to the Commission.

Mr. Todd briefly presented the fiscal impact to PERF of some of Mr. Conklin's proposals (last page of Exhibit 10). The proposal to reduce the vesting period from ten to eight years would result in a .13% increase in the employer's annual contribution rate, and no change in PERF's funded status. The proposal to reduce the final average salary from 20 quarters to 12 quarters would increase the employer's annual contribution rate by .65%, and decrease PERF's funded status by approximately two percent. The employer's annual contribution rate is currently 6.3%.

Proposal to Compute TRF's Retirement Benefit Using a Statewide Average Teacher's Salary

Representative Jeff Thompson presented a proposal to use a statewide average salary amount to compute the pension portion of the retirement benefit for an individual who first becomes a member of TRF after June 30, 2008. Currently, the pension portion of the TRF retirement benefit is computed based on a member's average annual compensation for the highest five years of service before retirement. Representative Thompson explained that the goal of this proposal is the equalization of retirement benefits for all similarly situated teachers. The employer's contribution rate would be a flat amount, rather than an amount based on the compensation paid by the employer.

The Commission reviewed PD 3082, a discussion draft of Representative Thompson's proposal (Exhibit 13). PD 3082 would create a new account in TRF to allow the pension portion of a retiree's benefit to be computed using a statewide average teacher's salary. Staff explained that Representative Thompson and TRF must decide how to handle several issues raised by the draft, such as whether to maintain annuity savings accounts in their current form, how the employer's contribution rate should be computed, and how members with service in both TRF and PERF should be treated.

Frank Bush, Executive Director of the Indiana School Boards Association, testified in opposition to Representative Thompson's proposal. He said that the proposal would not equalize benefits, and that the fifty percent of school boards that would experience an increase in their employer contribution rate under the proposal would oppose it.

John Ellis, Executive Director of the Indiana Association of Public School Superintendents, said that 73% of public school retirement funds nationally compute their retirement benefits on either a three year or one year salary average. He expressed a concern about teachers working on extended contracts and thinks that Representative Thompson's proposal is a disincentive for teachers to take on extra duties for which they receive additional compensation. He said that reducing the period used to compute the final average salary from five to three years is the most important issue to his association.

Nancy Pappas of the ISTA testified that, if teachers' retirement benefits are too low, it's because teachers' salaries are too low. Historically, equalization efforts have looked at equalizing salaries to the middle or the top. She suggested that efforts be directed toward boosting teacher salaries to the middle. She also supported a three year final average salary computation.

Sally Sloan of IFT does not support Representative Thompson's draft and suggested that efforts be made to increase everyone's benefits, such as a three year final salary average or allowing the use of accumulated sick days to buy creditable service.

Cristy Wheeler, TRF Executive Director, stated that TRF will prepare a fiscal analysis based on the bill draft and agreed to work with Representative Thompson to revise the draft for the Commission's next meeting.

Transfer of 1977 Fund Convertees to the 1977 Fund

Tom Hanify, President of the Professional Firefighters Union of Indiana, presented a proposal to transfer from the 1925 Police Pension Fund, the 1937 Firefighters' Pension Fund, and the 1953 Police Pension Fund (collectively, the Old Funds) to the 1977 Police Officers' and Firefighters' Pension and Disability Fund (1977 Fund) responsibility for benefit payments to certain members of the Old Funds who converted to the provisions of the 1977 Fund. The proposal is to transfer all remaining convertees into the 1977 Fund. The proposal would result in $196M in savings to the Old Funds and affect about 650 individuals, 200 to 300 of which are inactive members of the Old Funds.

Tom Miller of the Professional Firefighters Union provided a brief history of the pension benefits provided for police officers and firefighters, including the election to convert to the 1977 Fund offered to members of the Old Funds and the 1998 transfer from the Old Funds to the 1977 Fund of the responsibility for benefit payments to convertees who retired or became disabled before June 30, 1998.

Doug Todd reviewed a letter, dated September 11, 2007, to Terry Magid, PERF Executive Director, concerning the fiscal impact of the proposal (Exhibit 14). Mr. Todd determined the fiscal impact to the 1977 Fund in two situations: (1) only the remaining nonactive converted members of the Old Funds are transferred to the 1977 Fund; and (2) all remaining converted members of the Old Funds, both active and inactive, are transferred to the 1977 Fund. For the first option, the annual funding (as a percentage of a first class officer's salary) would increase from 21.0% (the contribution rate since the 1977 Fund was established) to 22.7%, and the funded status of the 1997 Fund would decrease from 97.2% to 89.9%. For the second option, the annual funding would increase from 21.0% to 25.5% and the funded status of the 1977 Fund would decrease from 97.2% to 83.3%. On the other hand, cities and towns with Old Funds members would see decreases in the pension benefits paid.

In response to a question, Mr. Todd agreed that 1977 Fund employers without Old Funds members would pay a higher contribution rate without receiving a decrease in pension benefits paid.

Matt Brase of the Indiana Association of Cities and Towns said that the members of his association would need education to be able to weigh the pros and cons of supporting the proposal. Mr. Brase does not at this time know what his membership wants to do.

Mr. Hanify said that, after the fiscal impact of the proposal is clearer, he may suggest a gradual transfer over as many as five years to avoid increasing the 1977 Fund's current contribution rate.

State Police Pension Issues

Steve Buschmann of Thrasher Buschmann Griffith & Voelkel, P.C., representing the Indiana State Police Alliance, presented two proposals. The first proposal concerned the computation of the supplemental benefit provided to members of the State Police Pre-1987 Benefit System (Exhibit 15). During the 2007 session, the method of computing the supplemental benefit was substantially reworked to allow retirees to receive a supplemental benefit earlier. However, the State Police Department determined that the language, as amended during the 2007 session, does not cover a trooper who: (1) retired with more than 20 years of service; and (2) cannot begin drawing a supplemental benefit immediately upon retirement, because the trooper has not reached 55 years of age.

Mr. Buschmann asked the Commission to consider the amendment shown in PD 3075 (Exhibit 16), which would revise the computation of the supplemental benefit to include in the amount paid in the first year the retired member is eligible for the benefit the salary increases paid to active members for the period after the member retired and before the member first qualified for the supplemental benefit. The proposed amendment will not have a fiscal impact, because the fiscal note for the 2007 amendments contemplated that all troopers with more than 20 years of service in the State Police Pre-1987 Benefit System would be covered.

The second proposal involves the transfer of State Police Motor Carrier Inspectors and the Capitol Police from PERF to the State Excise Police, Gaming Agent, and Conservation Enforcement Officers' Retirement Fund (C & E Fund). Originally, State Police Dispatchers were also included in the transfer, but they were removed because of an issue as to whether they could qualify for line-of-duty death and disability benefits, because they are not dedicated law enforcement officers. Mr. Buschmann reviewed a chart summarizing the differences between PERF and the C & E Fund, including disability credit, service purchase, employee contributions, basic pension benefit, normal retirement age, and line of duty benefits (Exhibit 17).

Doug Todd discussed the fiscal impacts to the C & E Fund of adding only State Police Motor Carrier Inspectors, only the Capitol Police, or adding both (Exhibit 18). Mr. Todd's analysis assumed that the impact to the C & E Fund would be partially offset by a transfer of assets from PERF representing the present value of each member's accrued benefit under PERF.

If only State Police Motor Carrier Inspectors become members of the C & E Fund, the annual funding will increase 1.9% and the funded status of the C & E Fund will decrease from 72.9% to 66.4%. If only the Capitol Police become members of the C & E Fund, the annual funding will decrease 0.1% and the funded status of the C & E Fund will decrease from 72.9% to 71.0%. If both groups are added to the C & E Fund, the annual funding will increase 1.6% and the funded status of the C & E Fund will decrease from 72.9% to 64.9%.

In response to questions, Mr. Todd explained that the cost differences between the two groups is the result of differences in the average length of service. The cost savings to PERF are estimated to be $186,000, if the State Police Motor Carrier Inspectors become members of the C & E Fund, and $134,000, if the Capitol Police become members of the C & E Fund.

The Capitol Police were transferred to the State Police Department on July 1, 2002. However, the Capitol Police are not part of the State Police Benefit System. The training for the two groups is significantly different. The Capitol Police do not go through trooper school. They complete a 16 to 18 week basic training course at the Law Enforcement Academy.

Other Business

PERF distributed a press release announcing the award of a Certificate of Achievement of Excellence in Financial Reporting by the Government Finance Officers Association (GFOA) for PERF's 2006 Annual Report (Exhibit 19).

Next Meeting Dates

The Chair announced that the Commission's next meeting is scheduled for Wednesday, October 17, 2007, at 1:00 p.m. in Room 431 of the State House. If the Commission receives approval for a small budget increase, the Commission will have a fourth meeting on Wednesday, October 31, 2007, at 1:00 p.m..

The Chair adjourned the meeting at 4:40 p.m..